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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,429	12/15/2003	Vyacheslav Barsuk	END920030054US1	3436
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IBM CORPORATION IPLAW IQ0A/40-3 1701 NORTH STREET ENDICOTT, NY 13760			EXAMINER BROWN, MICHAEL J	
			ART UNIT 2116	PAPER NUMBER
			MAIL DATE 07/09/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/736,429

Applicant(s)

BARSUK, VYACHESLAV

Examiner

Michael J. Brown

Art Unit

2116

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-15, 18 and 21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-7, 10-15, 18 and 21 is/are rejected.
- 7) ☐ Claim(s) 8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Allowable Subject Matter*

1. Claim 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
2. Claims 1-7, 10-15, 18, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guarraci et al.(US PGPub 2004/0267918) in view of Leung et al.(US Patent 6,697,033).

As to claim 1, Guarraci discloses a method for performing a remote power reset(see paragraph 0035, lines 2-5) at a remote server(conventional computer

520, see Fig. 5) through a network connection(local area connection(LAN) 551, see Fig. 5), comprising continuously running a power reset procedure(ability to cycle power or reset; see paragraph 0035, line 4) to listen for a call to initiate the power reset in response thereto(see paragraph 0035). However, Guarraci fails to specifically disclose the method comprising pinning the power reset procedure to memory at the remote server.

Leung teaches a method comprising pinning a power reset procedure(software routine(TSR); see column 3, line 25) to memory(system memory area 116, see Fig. 1) at a remote server(see column 3, lines 25-30). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Leung's "pinning" method to Guarraci's method in order to have the ability to cycle power or reset reside in the memory at all times. The motivation to do so would be so that once they are loaded they can instantly be accessed from other programs(see Leung column 3, lines 23-25).

As to claim 2, Guarraci discloses the method wherein the listening for a call further comprises listening for a Request TCP/IP packet to initiate the power reset(see wide area network 552, Fig. 5).

As to claim 3, Guarraci discloses the method wherein the listening for a call further comprises listening for a call via a network connection(see local area network 551, Fig. 5).

As to claim 4, Guarraci discloses the method wherein the listening for a call further comprises listening for a call via a network connection(see local area

network 551, Fig. 5).

As to claim 5, Guarraci discloses the method wherein the listening for a call further comprises listening to a predetermined TCP/IP port for a Request TCP/IP packet specifying the power reset procedure(see wide area network 552, Fig. 5).

As to claim 6, Guarraci discloses the method further comprising receiving at a the predetermined TCP/IP port the Request TCP/IP packet and initiating the power reset procedure pinned in the memory of the remote server in response to receipt of the Request TCP/IP packet(see wide area network 552, Fig. 5).

As to claim 7, Guarraci discloses the method wherein the initiating the power reset further comprises performing a system call to reboot or power off the remote server(see paragraph 0033, lines 12-14).

As to claim 10, Guarraci discloses a remote server(conventional computer 520, see Fig. 5), comprising a memory(system memory 522, see Fig. 5) for storing program instructions(computer executable instructions, see paragraph 0046, line 3), and a processor(processing unit 521, see Fig. 5) configured according to the program instructions for running the power reset procedure to listen for a call to initiate a power reset in response thereto(see paragraph 0035). However, Guarraci fails to specifically disclose the remote server wherein the power reset procedure is being pinned to the memory.

Leung teaches a remote server wherein a power reset procedure(software routine(TSR); see column 3, line 25) is being pinned to a memory(system

memory area 116, see Fig. 1)(see column 3, lines 25-30). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Leung's invention to Guarraci's invention in order to have the ability to cycle power or reset reside in the memory at all times. The motivation to do so would be so that once they are loaded they can instantly be accessed from other programs(see Leung column 3, lines 23-25).

As to claim 11, Guarraci discloses the remote server wherein the call comprises a Request TCP/IP packet for initiating the power reset(see wide area network 552, Fig. 5).

As to claim 12, Guarraci discloses the remote server wherein processor listens for the call via a network connection(see local area network 551, Fig. 5).

As to claim 13, Guarraci discloses the remote server wherein the processor listens for a call by listening to a predetermined TCP/IP port for a Request TCP/IP packet specifying the power reset procedure(see wide area network 552, Fig. 5).

As to claim 14, Guarraci discloses the remote server wherein the processor receives the Request TCP/IP packet from predetermined TCP/IP port and initiates the power reset procedure pinned in the memory in response to the Request TCP/IP packet(see wide area network 552, Fig. 5).

As to claim 15, Guarraci discloses the remote server wherein the processor initiates the power reset by performing a system call to reboot or power off the remote server(see paragraph 0033, lines 12-14).

As to claim 18, Guarraci discloses a remote server (conventional computer 520, see Fig. 5), comprising means (system memory 522, see Fig. 5) for storing program instructions (computer executable instructions, see paragraph 0046, line 3), a power reset procedure (see paragraph 0035, lines 2-5) being pinned to the memory, and means (processing unit 521, see Fig. 5) configured according to the program instructions for running the power reset procedure to listen for a call to initiate a power reset in response thereto (see paragraph 0035). However, Guarraci fails to specifically disclose the remote server wherein the power reset procedure is being pinned to the memory.

Leung teaches a remote server wherein a power reset procedure (software routine (TSR); see column 3, line 25) is being pinned to a memory (system memory area 116, see Fig. 1) (see column 3, lines 25-30). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Leung's invention to Guarraci's invention in order to have the ability to cycle power or reset reside in the memory at all times. The motivation to do so would be so that once they are loaded they can instantly be accessed from other programs (see Leung column 3, lines 23-25).

As to claim 21, Guarraci discloses a program storage device readable by a computer (conventional computer 520, see Fig. 5), the program storage device tangibly embodying one or more programs of instructions (computer executable instructions, see paragraph 0046, line 3) executable by the computer to perform a method for performing a remote power reset (see paragraph 0035, lines 2-5) at

a remote server(remote computer 549b, see Fig. 5) through a network connection(local area connection(LAN) 551, see Fig. 5), the method comprising continuously running a power reset procedure(ability to cycle power and reset; see paragraph 0035, line 4) to listen for a call to initiate a power reset in response thereto(see paragraph 0035). However, Guarraci fails to specifically disclose the method comprising pinning the power reset procedure to memory at the remote server.

Leung teaches a method comprising pinning a power reset procedure(software routine(TSR); see column 3, line 25) to memory(system memory area 116, see Fig. 1) at a remote server(see column 3, lines 25-30). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Leung's "pinning" method to Guarraci's method in order to have the ability to cycle power or reset reside in the memory at all times. The motivation to do so would be so that once they are loaded they can instantly be accessed from other programs(see Leung column 3, lines 23-25).

### ***Response to Arguments***

3. Applicant's arguments, see Appeal Briefing, filed 3/2/2007, with respect to the rejection(s) of claim(s) 1-8, 10-15, 18, and 21 under 35 U.S.C. 102(e) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn.

However, upon further consideration, a new ground(s) of rejection is made in view of

Guarraci et al.(US PGPub 2004/0267918) and further in view of Leung et al.(US Patent 6,697,033).

4. Applicant's arguments filed 3/2/2007 in reference to Rule 131 Affidavit have been fully considered but they are not persuasive. Examiner has been correct in not accepting Applicant's swearing behind the Guarraci reference. The "actual reduction to practice" box was checked in section (5) of the declaration; however, there is not an actual reduction to practice because there was no proof of testing, and thus testing was not repeatable.

### ***Conclusion***

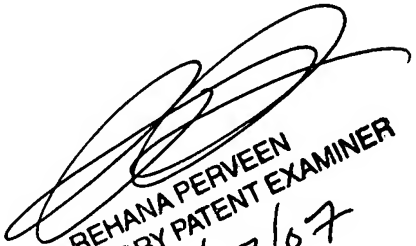
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Brown whose telephone number is (571)272-5932. The examiner can normally be reached Monday-Thursday from 7:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rehana Perveen can be reached on (571)272-3676. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michael J. Brown  
Art Unit 2116

  
REHANA PERVEEN  
SUPERVISORY PATENT EXAMINER  
6/28/07